

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2086

Introduced by Assembly Member Ammiano

February 23, 2012

An act to ~~amend Section 11169 of~~ *add Section 3003.6 to the Penal Code, relating to child abuse and neglect registered sex offenders.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2086, as amended, Ammiano. ~~Child abuse and neglect: Child Abuse Central Index. Registered sex offenders: local ordinances.~~

Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California. Existing law prohibits a person who is required to register as a sex offender from living in specified places, including within, 2000 feet of a school or park where children regularly gather. Existing law authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of the registered sex offender.

This bill would require municipal jurisdictions that enact local ordinances that restrict the movement of registered sex offenders to post notices in places that would provide sufficient notice of the restriction. The bill would make failure to comply with these provisions punishable by a civil penalty of \$50,000, to be deposited into the General Fund.

~~Existing law, subject to exceptions, requires a police department, a sheriff's department, a county probation department under certain circumstances, and a county welfare department to forward to the Department of Justice a report in writing of every substantiated case of~~

~~known or suspected child abuse or severe neglect, for purposes of inclusion by the department in the Child Abuse Central Index (CACI). Existing law further requires, if a report has previously been filed which subsequently proves to be not substantiated, the department to be notified of that fact and prohibits the department from retaining the report. Existing law provides for a hearing process by which a person included on the CACI may have himself or herself removed.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 3003.6 is added to the Penal Code, to*
2 *read:*

3 *3003.6. A municipal jurisdiction that has enacted a local*
4 *ordinance that restricts the movement of a person who is required*
5 *to register under Section 290 shall post notices in places sufficient*
6 *to give the registered person notice of the restriction. The notice*
7 *shall include information informing the registered person that*
8 *prosecution may result from a violation of the local ordinance.*
9 *Failure by the municipal jurisdiction to comply with this section*
10 *shall result in a civil penalty of fifty thousand dollars (\$50,000),*
11 *to be deposited into the General Fund.*

12 ~~SECTION 1. Section 11169 of the Penal Code is amended to~~
13 ~~read:~~

14 ~~11169. (a) An agency specified in Section 11165.9 shall~~
15 ~~forward to the Department of Justice a report, in writing, of every~~
16 ~~case it investigates of known or suspected child abuse or severe~~
17 ~~neglect that is determined to be substantiated, other than cases~~
18 ~~coming within subdivision (b) of Section 11165.2. An agency shall~~
19 ~~not forward a report to the Department of Justice unless it has~~
20 ~~conducted an active investigation and determined that the report~~
21 ~~is substantiated, as defined in Section 11165.12. If a report has~~
22 ~~been filed previously that subsequently proves to be not~~
23 ~~substantiated, the Department of Justice shall be notified in writing~~
24 ~~of that fact and shall not retain the report. The reports required by~~
25 ~~this section shall be in a form approved by the Department of~~
26 ~~Justice and may be sent by fax or electronic transmission. An~~

1 agency specified in Section 11165.9 receiving a written report
2 from another agency specified in Section 11165.9 shall not send
3 that report to the Department of Justice.

4 (b) On and after January 1, 2012, a police department or sheriff's
5 department specified in Section 11165.9 shall no longer forward
6 to the Department of Justice a report in writing of a case it
7 investigates of known or suspected child abuse or severe neglect.

8 (c) At the time an agency specified in Section 11165.9 forwards
9 a report, in writing, to the Department of Justice pursuant to
10 subdivision (a), the agency shall also notify, in writing, the known
11 or suspected child abuser that he or she has been reported to the
12 Child Abuse Central Index (CACI). The notice required by this
13 section shall be in a form approved by the Department of Justice.
14 The requirements of this subdivision shall apply with respect to
15 reports forwarded to the department on or after the date on which
16 this subdivision becomes operative.

17 (d) Subject to subdivision (e), a person who is listed on the
18 CACI has the right to a hearing before the agency that requested
19 his or her inclusion in the CACI to challenge his or her listing on
20 the CACI. The hearing shall satisfy due process requirements. It
21 is the intent of the Legislature that the hearing provided for by this
22 subdivision shall not be construed to be inconsistent with hearing
23 proceedings available to persons who have been listed on the CACI
24 prior to the enactment of the act that added this subdivision.

25 (e) A hearing requested pursuant to subdivision (d) shall be
26 denied when a court of competent jurisdiction has determined that
27 suspected child abuse or neglect has occurred, or when the
28 allegation of child abuse or neglect resulting in the referral to the
29 CACI is pending before the court. A person who is listed on the
30 CACI and has been denied a hearing pursuant to this subdivision
31 has a right to a hearing pursuant to subdivision (d) only if the
32 court's jurisdiction has terminated, the court has not made a finding
33 concerning whether the suspected child abuse or neglect was
34 substantiated, and a hearing has not previously been provided to
35 the listed person pursuant to subdivision (d).

36 (f) A person listed in the CACI who has reached 100 years of
37 age shall have his or her listing removed from the CACI.

38 (g) If, after a hearing pursuant to subdivision (d) or a court
39 proceeding described in subdivision (e), it is determined the
40 person's CACI listing was based on a report that was not

1 substantiated, the agency shall notify the Department of Justice of
2 that result and the department shall remove that person's name
3 from the CACI.

4 (h) ~~Agencies, including police departments and sheriff's~~
5 ~~departments, shall retain child abuse or neglect investigative reports~~
6 ~~that result or resulted in a report filed with the Department of~~
7 ~~Justice pursuant to subdivision (a) for the same period of time that~~
8 ~~the information is required to be maintained on the CACI pursuant~~
9 ~~to this section and subdivision (a) of Section 11170. Nothing in~~
10 ~~this section precludes an agency from retaining the reports for a~~
11 ~~longer period of time if required by law.~~

12 (i) ~~The immunity provisions of Section 11172 shall not apply~~
13 ~~to the submission of a report by an agency pursuant to this section.~~
14 ~~However, nothing in this section shall be construed to alter or~~
15 ~~diminish any other immunity provisions of state or federal law.~~